

Benny Knight appeals the denial of his petition to modify his sentence. Because Knight waived his right to petition for modification of his sentence when he signed his plea agreement, we affirm.

FACTS AND PROCEDURAL HISTORY

Knight entered a plea agreement that provided he waived “*any and all rights to file a petition for modification of sentence to request a change of placement that he/she may have pursuant to I.C. 35-38-1-17(b).*” (App. at 20) (emphasis added).

On December 5, 2005, the court sentenced Knight pursuant to the agreement, with initial placement in the Henry County Community Corrections Work Release Program. On March 3, 2006, the State filed a petition to revoke Knight’s placement because he was arrested on February 27, 2006, for driving with a suspended license. Knight admitted the violation, and the court revoked his placement and sent him to prison for the remainder of his sentence.

On February 6, 2007, Knight filed a pro se “Petition for Examination for Post-Conviction Forensic Diversion Program, Stay of Execution of Sentence and Waiver of Execution of Sentence.” (App. at 61.) In that motion, Knight alleged he meets the criteria in Ind. Code § 11-12-3.7-12 for participation in post-conviction forensic diversion program. He also argues his transfer to a forensic diversion program is supported by public policy, as evidenced by Ind. Code § 35-38-1-17(b) providing a mechanism for early release of prisoners who have “demonstrated their suitability for return to a free society,” (Appellant’s App. at 63), and the Indiana Constitution’s focus on “reformation and not vindictive justice.” (*Id.*)

Three days later, the State filed an objection to modification, arguing the court could not modify Knight's sentence because it was entered pursuant to a plea agreement and the State objected to any proposed modification under Ind. Code § 35-38-1-17(b). The court found it could not modify Knight's sentence because it had been entered pursuant to a plea agreement.

DISCUSSION AND DECISION

We have reviewed the two chapters of the Indiana Code that contain programs for which Knight believes he should be eligible: "Direct Placement in Community Corrections" pursuant to Ind. Code ch. 35-38-2.6, and the "Forensic Diversion Program" described in Ind. Code ch. 11-12-3.7. Both of those chapters describe sentencing options the court has when initially imposing a sentence or determining how a defendant should serve a suspended sentence. Neither of those chapters provides a mechanism for the court to modify a sentence already being served. Therefore, neither chapter provided the trial court authority to modify Knight's executed sentence to a suspended sentence, such that the court could then place Knight in one of the programs.

Rather, modification of Knight's sentence would have to occur pursuant to Ind. Code § 35-38-1-17(b). However, Knight specifically waived his right to petition for modification of a sentence under that statute: "The Defendant specifically agrees and understands that an additional term of his agreement is that he waives any and all rights to file a petition for modification of sentence to request a change of placement that he/she may have pursuant to I.C. 35-38-1-17(b)." (App. at 50.) Because Knight had no right to request a sentence modification, the court had no authority to grant one. Accordingly, we

affirm the denial of Knight's motion.

Affirmed.

DARDEN, J., and CRONE, J., concur.